

## **MINUTES OF THE BOARD OF SELECTMEN MEETING**

February 22, 2016

Meeting held at Town Hall, 7:00 p.m.

**MEMBERS PRESENT:** Chairman Robert Merry, Vice Chairman Joseph Perry, David Petersen, Cliff Pierce (Town Administrator Deborah Eagan, Assistant Town Administrator Amy Lydon) - Clerk Robert Snow - ABSENT

**PUBLIC ATTENDEES:** Lawrence White; Travis Kneeland; Bernie Cullen; Henry F. Rolfe; MaryBeth Wiser; Mark Emery

### **CALL MEETING TO ORDER**

Chairman Robert Merry called meeting to order at 7:02 p.m. He said the meeting is being audio and video recorded digitally.

### **PLEDGE**

Henry Rolfe led the Pledge of Allegiance.

### **GENERAL BUSINESS**

#### **1. FY 16 Great Marsh Green Crab Trapping Program**

Shellfish Constable Travis Kneeland said the Division of Marine Fisheries contacted him to see if the Town was interested in participating in the program for the invasive green crabs. He said he has tried to call her back to discuss this, but hasn't spoken to her yet. He said based on the information that they sent, Rowley is eligible for \$15,000 to be used for items related to green crab trapping such as equipment and for citizen's who participate, such as commercial clammers. Merry said they are trying to make the green crabs useful for something. Kneeland said he doesn't have the full details yet, such as how they would dispose of the crabs. Merry asked Kneeland if he has spoken to Jack Grundstrom about this. Kneeland said not yet. Merry suggested that Kneeland reach out to Jack Grundstrom as he and John Grundstrom were heavily involved in this, and he and Perry went to a meeting in Gloucester with them on this topic last year. Perry asked if the citizens need to be licensed clammers. Kneeland said he doesn't think so, but he isn't sure. Bernie Cullen asked what the issue is with the clams. Kneeland explained that they are an invasive species that are destroying the marsh, and they eat clam seeds and small fish. Perry said they can do a lot of damage to the clamming industry and they could wipe out clamming on the Maine coast. Kneeland said Maine is being hit hard, and he will get back to the Board once he has further details. Eagan said if the Board is interested in participating in this, there is paperwork that needs to be completed. Pierce said there are extensive record keeping requirements for this program and asked who would be responsible for this. Kneeland

said he needs to speak with the DMF to clarify this. Eagan said if the Town accepts the funds, the requirements must be followed and the Board of Selectmen as the signatory would need to ensure that this is being done correctly.

**CITIZEN QUERY** 7:10 p.m. – 7:15 p.m.

There were no Citizen Queries.

**OLD BUSINESS**

2. 2016 Stable license update – Prestige Stables

Chairman Merry read the following:

*During the February 8, 2016 Board of Selectmen's meeting, the Board voted to notify the owner of Prestige Stables that they needed to file their 2016 Stable License Application. Several letters had been sent to Kasandra Olsen with no response.*

*Since that time, Debbie was contacted by Steve Comley, Jr. who told her that he was the owner of Prestige Stables, not the person whose name we were given by the Animal Inspector.*

*Debbie is recommending that the Board of Selectmen vote to send a letter to Mr. Comley asking him to complete the 2016 Stable License Application and return it to the Board of Selectmen.*

Cliff Pierce made a motion to send a letter to Mr. Comley asking him to complete the 2016 Stable License Application and return it to the Board of Selectmen, Dave Petersen second, all in favor - aye (4-0). Bob Snow – ABSENT

**APPOINTMENT 7:15 p.m.** - Conservation Agent Brent Baeslack to discuss the:

- FY 17 Conservation Commission budget;
- Dodge Reservation access; and
- Merrimack Valley Planning Commission Pictometry Program

**FY 17 Conservation Commission budget:**

Conservation Agent Brent Baeslack said the review of the Department's FY17 budget has two parts: the request for a secretarial position and the budget packet. Baeslack said since 2004, the Conservation Department has been a single person Department except for the senior tax credit worker who has worked a few hours since 2006 / 2007. He said the Department has increasing responsibilities not only from environmental regulations, but also from stormwater management and erosion control, and the Floodplain bylaw. He said increased developments have increased the permitting done through the Department. He requested that the Board of Selectmen support the request to return to staff this secretarial position, which would be for sixteen hours per week. He

said ten hours would be funded through the budget and would be \$8,299, and the additional six hours would be funded from the Notice of Intent budget, since this portion of the person's time would be spent on duties related to Wetlands Protection.

Petersen said there is a lot of work in the Conservation Department, and they badly need support. He said Baeslack is often out of the office doing field work and it would help to have someone in the office when he isn't there and to help with the enormous amount of paperwork. Merry said he agrees, especially with the new mandates, such as Stormwater. Pierce and Perry agreed.

Joseph Perry made a motion to approve request to add a secretary position and the Conservation Commission FY17 budget, Cliff Pierce second, all in favor - aye (4-0).  
Bob Snow – ABSENT

Baeslack said there is another request for authorization to use the NOI funds for the new position.

Dave Petersen made a motion to approve request to use NOI funds for six hours per week payment for the new secretary position, Cliff Pierce second, all in favor - aye (4-0).  
Bob Snow – ABSENT

### **Dodge Reservation access**

Baeslack said this topic is about the access from Wethersfield Street to the Open Space area of the Dodge Reservation. Baeslack reviewed the map of the area, including the three existing parking areas. He said they are proposing to widen the existing one-way access to the camp so that it becomes a two-way road. He said they also propose to cut a new one-way exit which would be 60 to 80 square feet. He said the Old Smith Lane would then become the foot / hoof access for the public to use. He said a path would be created and marked for the public to use to access the open space from this location. He said this proposal maintains the security of the camp area, and there is not a large earth disturbance, which would be prohibited under the Conservation Restriction with Essex County Greenbelt. Pierce asked if the YMCA agrees with this plan. Baeslack said both the YMCA and Essex County Greenbelt agree to it and have no objections. Baeslack said the Conservation Commission has voted to support this plan.

Petersen said hopefully before the summer, the signage will be put up once the trail is cut. He said the "No Trespassing" and "Keep Out" signs have been removed and the caretaker is aware that the public may access the conservation area. Baeslack said the plan also increases public safety by providing a separate road for vehicular traffic and a dedicated footpath for foot and horse access. Petersen said if this is approved, the Highway Department will do some of the work using money from this year's budget, and then a contractor will be hired to finish the work. Pierce said it sounds like a good plan.

Bernie Cullen asked if there is an estimate of the cost for this. Petersen said no, but it shouldn't be much, maybe four or five thousand dollars for the contractor to finish the work, based on the cost for the work done on the access road to the Water Treatment Plant.

Dave Petersen made a motion to approve this plan and authorize the spending of funds to do this work, Cliff Pierce second, all in favor - aye (4-0). Bob Snow – ABSENT

### **Merrimack Valley Planning Commission Pictometry Program**

Baeslack said he previously requested support for a spring flight, but MVPC concluded that there was not enough support to do a flight in 2016, but there is enough support for a 2017 flight. He said it is better to have a larger mass of communities participating since the flight path is more efficient, and the flight is more cost effective. Pierce confirmed with Baeslack that the total cost for Rowley is \$9,736 and said this can be paid over two years.

Joseph Perry made a motion to authorize participation in the 2017 flight, Cliff Pierce second, all in favor - aye (4-0). Bob Snow – ABSENT

Bob Merry signed the agreement regarding the 2017 flight from MVPC.

### **APPOINTMENT 7:30 p.m.** – Water Superintendent MaryBeth Wiser and Water Board Chairman John Manning to discuss FY 17 Water Budget

Water Superintendent MaryBeth Wiser said she is present with Water Commissioner Vice Chairman Mark Emery. Petersen said it is a pleasure to get this budget this year, and in all of his years on the Board he has never seen the Water Budget process so smooth. He said having new Commissioner Emery helps.

Wiser said overall the budget is down approximately 6%, or \$189,000 from FY16. She presented the following budget highlights:

- They are proposing a part time Janitor/Maintenance position for 16 hours per week
- Overtime budget has decreased by \$8,000
- Most expense lines have decreased. FY16 was used to restock a lot of inventory, so inventory just needs to be maintained in FY17
- Line 8 Engineering Services and Line 9 Customer Service and Billing were moved into Line 7 under the Services category
- The line for Water Treatment Expenses has been moved into Line 7

Petersen asked Wiser how the hiring process is going for the additional staff positions previously added. Wiser said the position was advertised in December, and she thinks it was bad timing. She said they were re-advertised at the beginning of February; there

have been three candidates, two were interviewed and one was a no show. She said we will see how it goes, but they are moving forward with filling the positions.

Wiser reviewed the items on the FY17 Capital Expenses sheet. She said these items will not cause rates to increase, and are being funded from the Stabilization account, through the budget or re-purposing of Articles. Petersen said he would like to express his appreciation of Water Chairman Manning who has been doing an excellent job running the meetings. Water Vice Chairman Emery said Wiser does a great job and she has helped get him up to speed in the less than one month that he has been on the Board. Eagan said negotiations need to be done with AFSCME, so this budget does not include any wage increases from the negotiations. She said if the AFSCME contract is settled ahead of Town Meeting, this budget will change, but if not the wage increases will be on a future Town Meeting. Wiser said the revenue projections for the remainder of the fiscal year are spot on.

Dave Petersen made a motion to approve the Water Department budget as submitted, Joseph Perry second, all in favor - aye (4-0). Bob Snow – ABSENT

### **OLD BUSINESS**

#### **1. Discuss:**

- Triton's FY 17 Tentative Budget and letter sent to Triton School Committee Chairperson Deb Choate
- Triton Regional School Committee Public Hearing on FY 17 Tentative Budget; and
- Pine Grove Project Update

Chairman Merry read the letter sent to Deborah Choate, Triton Regional School Committee Chairperson. Perry said he hand delivered a copy of this letter to each School Committee member on Wednesday. He said this letter was discussed at the District Communications Meeting, and he doesn't see the value in presenting it again.

Perry updated the Board on the Triton budget. He said the tentative budget shows an increase of \$569,651. He said he believes Robin Williams, Vice Chair of the School Committee commented that the administration should seek re-opening negotiations with the teacher's union to reduce their percentage increase by 1%. He said they would use these savings to restore the cuts already reflected in the tentative budget, not to reduce the assessments to the Towns. He said he thinks this tentative budget is close to what the final figure will be. He said this Thursday there is an open hearing where the public can speak for three minutes. He said members of Town Boards and parents are invited to attend. Petersen said he went to this meeting with Perry and he agrees with Perry's presumptions that there will be no appreciable change to the budget, and the Town needs to figure out how to deal with this increase. He said Brian Forget recommended that we look at how the assessment is done in the future. Perry said he has not gotten an increase in his social security benefits since 2014, and a 3% increase for Triton employees seems excessive. Pierce said inflation is non-existent, Federal and State employees have received miniscule increases, so a 3% increase seems excessive.

Bernie Cullen said increases such as this are not unknown historically and asked what Rowley has done in the past with an unworkable budget from Triton. Petersen said the Town can seek an override, use free cash to fund it, or cut Department budgets. He said the Town has to fund the School Budget under State Law. He said two out of three Towns would need to not approve the budget. He said Newbury will improve it given that they are getting a decreased assessment, and he asked the Salisbury Town Manager about it and he didn't seem too concerned with their increased assessment. Cullen asked what is driving the increase. Petersen said the number of students is decreasing in the district, but Rowley's number of students is not decreasing as much. Cullen asked if the formula can be dissected. Petersen said this is a complicated State formula. Perry said this is a State Department of Education formula. He said two years ago there was a glitch in the formula. He said the assessment for Newbury had decreased, and the assessments for Rowley and Salisbury increased. He said the budget was approved at each Town's Meeting in May, but the glitch was found in June. He said Newbury's assessment should have been higher by \$230,000, and Newbury owed roughly \$115,000 to each Rowley and Salisbury. He said there is nothing in State law to enforce Newbury to reimburse Rowley and Salisbury, and they didn't. He said this problem occurred in other communities as well. He said they went to Senator Tarr and Representative Hill the next year and they made sure the DOR reviewed the calculation for accuracy, and they found that the calculation was done properly. He said there is a small group of individuals at the State who understand this formula.

Petersen said the bottom line is that funding the budget is State law, the Town has tried to write letters to the legislation, but the Town needs to figure out how to make up this deficit. Merry said the legislation has always promised to fund Regional Transportation at 100%, they never have, and this year the budget is for 50% funding.

Perry updated the Board on the Pine Grove School project. He said he called the Ipswich Superintendent last week, and he has gotten no reply yet. He said he did speak to Winthrop School Principal Sheila McAdams today at length, and she provided good information. He said there will be a ton of paperwork for this grant, and most will need to be completed by Triton. He said the timeframes are coming up, and we need to create a School Building Committee. He said the MSBA informed them that the feasibility study could cost \$500,000 to \$1,000,000. He said he has gotten clarification that the reimbursement rate from the State could range from 30% to 80% depending on the economic circumstances. He said McAdams told him their reimbursement rate was 45%. He said he will reach out to the Ipswich about their School Building Committee.

Eagan said Town Attorney Mullen clarified who the signatories should be on the forms and that the Selectmen are the appointing authority for the School Building Committee. She said the Selectmen may want to discuss this and when they plan to appoint the Committee. Petersen said he would like time to digest this and discuss this next week. Perry said he has some recommendations for the Committee, but would like to speak with the individuals first.

## **NEW BUSINESS**

### 1. Memo from Rowley Municipal Light Plant

Chairman Merry recused himself from this matter because he is a member of the Municipal Light Board.

Vice Chairman Perry read the memo from the Light Department. Pierce asked if this is done annually, and if the amount is the same. Merry said the amount is determined by the street light bill. Petersen said the Light Department annually forgives the street light expenses for the Town. Merry said the Light Department cannot sell electricity for less than its cost, and they get around this by doing a payment in lieu of taxes, based on the estimated electricity used for street lighting.

Dave Petersen made a motion to accept the payment in lieu of taxes of \$33,273.76 from the Light Department, Cliff Pierce second, all in favor - aye (3-0). Bob Snow – ABSENT  
Bob Merry - RECUSED

### 2. Letter from Assistant Attorney General Kevin Manganaro regarding Open Meeting Law Complaint filed by Joseph Perry

Chairman Merry said, "Assistant Attorney General Kevin Manganaro has responded to a complaint filed by Joseph Perry on November 16, 2015. Chairman Merry will read the response into the record." Merry read the response.

### 3. Discuss Open Meeting Law Complaint filed by Robert Merry on January 12, 2016

Chairman Merry read the following:

*During the January 11, 2016 meeting, the Board discussed and voted to file an Open Meeting Law Complaint against former Water Board Commissioner Timothy Toomey for deliberating outside of a public meeting via email. (A copy of the Open Meeting Law Complaint is attached.)*

*Debbie and Chairman Merry discussed this complaint with Assistant Attorney General Kevin Manganaro. Since Mr. Toomey is no longer on the Water Board, it is not necessary for the Board of Selectmen to pursue this complaint because it will be the responsibility of the current members of the Water Board to respond to it. The Board of Selectmen needs to vote to withdraw the complaint and to authorize Chairman Merry to notify the Water Board and Attorney General's Office of the Selectmen's withdrawal.*

Dave Petersen made a motion to withdraw the complaint and to authorize Chairman Merry to notify the Water Board and Attorney General's Office of the withdrawal, Cliff Pierce second, all in favor - aye (4-0). Bob Snow – ABSENT

Merry said the fine is \$1,000, but because Toomey is no longer a Board member, the fine would go to the current members of the Water Board. He said by withdrawing, this will go away. Bernie Cullen asked who pays the fine. Petersen said it would depend on how the Attorney General decides.

4. Letter from William Herrick and Cynthia Lucia regarding Chapter 61 Forestry land

Chairman Merry read the following:

*The Board discussed the letter it received from William Herrick and Cynthia Lucia regarding Chapter 61 Forestry Land.*

*The Board requested that Debbie contact Town Counsel Judy Pickett for guidance because back on July 1, 2014, the Board of Selectmen notified Ms. Lucia that her request to release two parcels of land at 40 Dodge Road and 2 Mill Road were insufficient. The notice listed the items that were missing in her request. No response was submitted until the Board received the January 27, 2016 letter. The Board needs to review Judy Pickett's memo.*

Merry read Judy Pickett's memo. Pierce said the 2016 letter is more detailed than the 2014 letter. Eagan said normally a comprehensive packet is submitted for these requests.

Joseph Perry left the room, but returned in time to participate in the vote.

Dave Petersen made a motion to notify William Herrick and Cynthia Lucia that their letter along with the record of the owners doesn't meet the requirements, Cliff Pierce second, all in favor - aye (4-0). Bob Snow – ABSENT

## **ANNOUNCEMENTS**

- Presidential Primary Election – March 1, 2016
- The Town has the following vacancies:
  - a. **Shellfish Commissioners** – two seats
  - b. **Fence Viewer** – three positions;
  - c. **Wood, Lumber & Bark Inspector**;
  - d. **Zoning Board of Appeals Associate** - three seats
  - e. **Historical Commission-Historic District Commission** – two seats
  - f. **Parks and Recreation Committee** – two seatsFor more information on these positions, please contact the Selectmen's Office at 948-2372.
- Rowley Food Pantry is in need of donations. The Food Pantry is open Tuesdays from 10:00 a.m. to 12:00 p.m. and Thursdays from 5:30 p.m. to 7:00 p.m.



## **ADJOURN**

There being no further business before the Board, Chairman Merry called for a motion to adjourn. Joseph Perry so moved, Cliff Pierce second, all in favor - aye (4-0). Bob Snow - ABSENT

Open meeting adjourned at 8:50 p.m.

Respectfully submitted,  
Amy Lydon  
Assistant Town Administrator

## **ATTACHMENTS:**

1. Email from Kelly Whitmore regarding 2016 Great Marsh Green Crab Trapping Program
2. Letter from Kelly Whitmore regarding FY2016 Great Marsh Green Crab Trapping Program, including enclosures
3. Meeting memo regarding Old Business #2: 2016 Stable license update – Prestige Stables
4. Letter to Cassandra Olsen Regarding Stable License from Amy Lydon dated February 9, 2016
5. Letter from Brent Baeslack regarding Conservation Commission Notice of Intent Funds Authorization Request
6. Letter from Brent Baeslack regarding Request to staff Conservation Commission Secretary Position in FY17
7. Conservation Department budget submitted 2/18/16
8. Dodge Reservation sketch for proposed access plan
9. Letter from Dennis DiZoglio regarding 2017 Pictometry Flight
10. Water Department FY17 Budget Request Draft dated February 10, 2016
11. Meeting memo regarding Old Business #1: Discuss: Triton's FY 17 Tentative Budget and letter sent to Triton School Committee Chairperson Deb Choate; Triton Regional School Committee Public Hearing on FY 17 Tentative Budget; and Pine Grove Project Update
12. Triton tentative operating budget fiscal year 2017
13. Letter to Deborah Choate Triton Regional School Committee Chairperson from Chairman Merry regarding FY17 Proposed Operating Budget
14. Memo from Town Attorney Thomas Mullen regarding Triton Regional School District
15. Email between Deborah Eagan and Thomas Mullen regarding ICC Form
16. ICC Form from MSBA
17. Draft letter to MSBA regarding School Building Committee for Pine Grove School

18. Memo from Rowley Municipal Light Plant regarding 2016 Payment in Lieu of Taxes to the Town of Rowley
19. Meeting memo regarding New Business #2: Letter from Assistant Attorney General Kevin Manganaro regarding Open Meeting Law Complaint filed by Joseph Perry
20. Letter from Assistant Attorney General Kevin Manganaro regarding Open Meeting Law Complaint filed by Joseph Perry
21. Open Meeting Law Complaint filed by Joseph Perry, including Exhibits
22. Meeting memo regarding New Business #3: Discuss Open Meeting Law Complaint filed by Robert Merry on January 12, 2016
23. Open Meeting Law Complaint filed by Robert Merry on January 12, 2016, including Exhibit
24. Meeting memo regarding New Business #4: Letter from William Herrick and Cynthia Lucia regarding Chapter 61 Forestry land
25. Memo from Judy Pickett regarding 40 Dodge Road and 2 Mills Road, Rowley/MGL c. 61
26. Assessor's property card for 2 Mill Road
27. Assessor's property card for 40 Dodge Road
28. February 8, 2016 Meeting memo regarding New Business #3: Letter from William Herrick and Cynthia Lucia regarding Chapter 61 Forestry land
29. Letter from William Herrick and Cynthia Lucia regarding Chapter 61 Forestry land dated January 27, 2016
30. Letter to Cynthia Lucia dated July 1, 2014 from Chairman Merry regarding Release of Forestry Land, including enclosures
31. Letter from Cynthia Lucia regarding Chapter 61 Forestry land dated May 7, 2014
32. Durable Power of Attorney for Elizabeth P. Herrick
33. Property Owner's Acknowledgement of Rights and Obligations under Classified Forest Land Program completed by Elizabeth Herrick
34. Letter from Francis DiLuna dated June 27, 2014 regarding Chapter 61 Classification of 2 Mill Street and 40 Dodge Road
35. Email from Brent Baeslack regarding Conversion from Chap.61 Forestry Rowley dated June 30, 2014, including attachments